

***HOUSE RESOURCE AND CONSERVATION COMMITTEE***

***ADMINISTRATIVE RULES REVIEW***

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***2005 Legislative Session***

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## House Resource and Conservation Committee

### IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

#### 25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0402

#### NOTICE OF RULEMAKING - PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and are now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 36-2107(b) and (d), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of any change for a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are some minor changes to the pending rule that differ from the proposed text. Section 009 – Outfitter License Codes and Guide Activities Codes, Subsection 01 - Outfitter License Codes, has been changed from “4BG Blue Grouse” to “4FG Forest Grouse” and “4CH Chukar, Grey Partridge and Hungarian Partridge” has been changed to “4CH Chukar and Grey Partridge. Based on comments received from industry and Board concerns, Section 059 - (CL1), (CL2), and (CL3) have been changed to delete clarifying combination license limits.

Only the sections that have changes different from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the September 1, 2004, Idaho Administrative Bulletin, Volume 04-9, pages 188 through 214.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

The changes in Rule 009 delete amendment fees which are provided elsewhere by statute and rule, and provide for outfitter license codes and guide activity codes. The changes in Rule 015 provide that instead of a late fee, a penalty fee shall be paid before the license is issued, and that an outfitter shall pay an annual license fee for each license they hold. The fees discussed in the rulemaking are implementation of existing fees in statute and rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rule, contact: Jake Howard, Executive Director (208) 327-7380 - FAX 327-7382

DATED this 15th day of November, 2004.

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**OUTFITTERS AND GUIDES LICENSING BOARD**  
**Rules of the Outfitters and Guides Licensing Board**

**Docket No. 25-0101-0402**  
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### *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) (36-2107(b) and (d), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The changes in Rule 002 provide that an “incidental” amendment would be a “minor” amendment; deletes the definition of “nonuse” because it is defined elsewhere; clarifies that a licensed boatman need not be in the same boat as long as the licensed boatman can render immediate assistance; adds selling lifetime hunts to the definition of “unethical/unprofessional conduct”; and deletes the definition of “zero use” because “nonuse” is already defined elsewhere. The changes in Rule 007 provide that temporary employment or short term loan or transfer shall not be on a routine basis, the employing outfitter or authorized agent shall keep written documentation of the loan or transfer, and that repeated transfers or loans of guides should be done by using the amendment process. The word “guide” is changed to “individual” in this rule because these individuals are not licensed guides. The changes in Rule 009 delete amendment fees which are provided elsewhere by statute and rule, and provide for outfitter license codes and guide activity codes. The changes in Rule 015 provide that instead of a late fee, a penalty fee shall be paid before the license is issued, that an outfitter shall pay an annual license fee for each license they hold and, if required, to submit use reports for each license, and be able to differentiate between each business and its clients. The change in Rule 018 provides that a new outfitter application or an outfitter license amendment application in the case of a sale and purchase of the outfitter business shall include the sales agreement(s) or contract(s) including the purchase price. The change in Rule 019 deletes the requirement that the bond name the business and the designated agent since the statute only requires proof of a bond. The change in Rule 021 provides that the outfitter application shall include the name of the business entity registered as a “d.b.a.” or the name registered with the Secretary of State. The change in Rule 022 provides that the outfitter shall operate under the name(s) licensed by the Board and under no other names and that certain business entities must have a Designated Agent in order to be licensed and to operate. The change in Rule 024 deletes the current intent and descriptions of nonuse and waiver and provides for new definitions for these terms as well as definitions of “Zero Use,” “Negligible Use,” the process for finding non-use and what acceptable use is. It also provides for required records, for non-use during a sale and for waiver of compliance. The changes in Rule 028 provide for deleting the current language regarding transferability and issuance of a license to a purchaser and

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addresses the procedures for buying or selling an outfitter business as currently found in the user manual. The changes provide that an outfitter license is not transferable, that licenses have no sale value and reviews transfer of title and change in control of an outfitter business. The change in Rule 030 clarifies that outfitter waiting lists apply to all licensed rivers, lakes and reservoirs in Rule 59 and for each specific Idaho Department of Fish and Game unit. They also clarify the directions the Board may take if there is no waiting list for an operating area and the application process and fee for each area to be considered, and that a name shall be kept on a waiting list for a period of two years or until December 31 of the second year the name is placed on the list. Criteria used in making selections shall include those used to consider new outfitter applications or license amendments. Rule 034 provides that a licensee will produce upon request, a valid first aid card while guiding. It also provides for gender-neutral wording. The changes in Rule 044 provide that the Technical Advisory Committee shall be comprised of five (5) members who are qualified backcountry ski outfitters and guides and will be appointed by the executive Directory to advise the Board on non-hazardous and hazardous terrain skiing. The TAC will recommend whether or not the Board shall license an applicant for these activities. The changes in Rule 053 provide that in order to conduct a controlled hunt outside the outfitter's operating area the applicant must obtain written permission from all outfitters whose licensed area(s) will be directly involved in the hunt, or obtain a finding by the Board that it is appropriate for a proposed trophy species hunt to take place in another specified area outside the outfitter's operating area, and that an outfitter minor amendment fee must be submitted for each hunter. The boundaries of the CL1 Section of the Clearwater River shall be from Lowell to the Upper Bridge at Kooskia, on CL2 at the Upper Bridge at Kooskia to the Bridge at Orofino, and on CL3 from the Orofino Bridge to the Railroad Bridge at Lewiston. On this section each outfitter may use at any one time a maximum of (a) three (3) power boats or three float boats or combination thereof if licensed for both fishing, and (b) five (5) boats for other boating activities per license. The Coeur d'Alene river has been added with four sections, CDFN which is the Headwaters of the North Fork of the Coeur d'Alene River, CD1 which is the Coeur d'Alene River from Devil's Elbow to the South Fork confluence and CD2, the South Fork confluence downstream to Cataldo Mission Boat Ramp, and CD3, the Lateral (Coeur d'Alene chain) Lakes connected by the Coeur d'Alene River from the Cataldo Mission Boat Ramp to the Highway 97 Bridge. Subsection 02 of this Rule includes the Salmon River through the Snake River and Section 03 of this Rule includes the Snake River through the Teton River.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

**Fees discussed in the rulemaking are implementation of existing fees.**

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted prior to submission, however the public will have the opportunity to comment on the rules as provided hereunder and may request a hearing as provided by 67-5222, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact: Jake Howard, Executive Director (208) 327-7380 - FAX (208) 327-7382

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**PENDING FEE RULE**

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Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2004.

DATED this 9th day of August, 2004.

Jake Howard  
Executive Director  
Outfitters and Guides Licensing Board  
1365 North Orchard, Suite 172  
Boise, ID 83706  
(208) 327-7380  
FAX (208) 327-7382

### **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

#### **002. DEFINITIONS.**

The Act defines certain terminology applicable to its interpretation and administration (Idaho Code 36-2102). Further definitions, for the purposes of these Rules are: (4-1-92)

**01. Act.** Shall mean Idaho Code, Title 36, Chapter 21, commonly known as the Outfitters and Guides Act, as amended. (4-1-92)

**02. Administrative Noncompliance.** (3-10-03)

**a.** Two (2) or more repeated failures to apply for license renewal in a timely manner; (3-10-03)  
or

**b.** Two (2) or more repeated failures to file a complete application pursuant to Section 36-2113(a)(1), Idaho Code. (3-10-03)

**03. Authorized Person.** An investigator or enforcement agent in the employ of the Board, a conservation officer of the Idaho Department of Fish and Game, or any local, state, or federal law enforcement officer. (4-1-92)

**04. Board.** The Idaho Outfitters and Guides Licensing Board. (4-1-92)

**05. Board Meeting.** The set schedule of meeting dates established for conduct of regular Board business on a calendar year basis. Additional meetings may be scheduled as necessary (See Section 071). (4-1-92)

**06. Booking Agent.** Any individual, firm, business, partnership, or corporation that makes arrangements for the use of the services of a licensed outfitter and receives compensation therefore. A booking agent does not supply personnel or facilities and services to outfitter clientele. (4-1-92)

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**07. Compensation.** The receipt or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party shall not be deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (4-1-92)

**08. Completed Application.** An application submitted for Board consideration which contains all of the material required to be submitted by the Board for that license category. (4-1-92)

**09. Consideration.** The receipt or taking of goods, services, or cash in exchange for the provision of facilities and services in the conduct of outfitted or guided activities. (4-1-92)

**10. Desert.** A region of scarce rainfall and vegetation in areas often having great differences between day, night and seasonal temperatures. A desert is a land surface ranging from level, plateau land, or undulating to sharply breaking hill-lands and sand dunes that, in addition, may be broken by poor to well-defined, deeply entrenched drainage systems, rims, cliffs, and escarpments. (4-1-92)

**11. Designated Agent.** An individual who meets all qualifications for an outfitter's license who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that is licensed by the Board to operate as an outfitter and who shall, together with the licensed outfitter, be responsible and accountable for the conduct of the licensed outfitter's operations. ~~The name of each designated agent employed by an outfitter shall appear on the outfitter's bond.~~ A designated agent may act as a guide if he possesses the qualifications of a guide as determined by the Board. (Previously referred to as Managing Agent). (4-1-92)( )

**12. Drift Boats.** Shall be substituted for and have the same meaning as "float boats" defined below. (4-1-92)

**13. Enforcement Agent.** An individual employed by the Board having the power of peace officers to enforce the provisions of the Idaho Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and the Rules promulgated thereunder. (4-1-92)

**14. Facilities and Services.** The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Section 36-2102(b), Idaho Code. (4-1-92)

**15. First Aid Card.** A valid card issued by the American Red Cross to denote the individual whose name and signature appear thereon has successfully completed an applicable Red Cross course and is qualified to render appropriate, minimal first aid as prescribed by the American Red Cross, or other valid evidence showing successful completion of an equivalent course conducted by an organization acceptable to the Board. (4-1-92)

**16. Fishing.** Fishing activities on those waters and for those species described in the rules of the Idaho Department of Fish and Game, IDAPA 13.01.11, "Rules Governing Fish," general fishing seasons and any anadromous fishing rules; for purposes of the "Act", fishing is

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defined as follows: (4-1-92)

- a. Anadromous fishing means fishing for salmon or steelhead trout. (4-1-92)
- b. Float boat fishing means the use of floatboats without motors for the conduct of fishing as a major activity on those waters open to commercial activities as set forth in Section 059. (4-1-92)
- c. Fly fishing means a licensed activity restricted to the use of fly fishing equipment and procedures, as defined by Idaho Department of Fish and Game rules. (4-1-92)
- d. Incidental fishing means fishing conducted as a minor activity. (4-1-92)
- e. Power boat fishing means the use of power boats in conduct of fishing as a major activity on those Idaho waters open to commercial outfitting activities as set forth in Section 059. (4-1-92)
- f. Walk and wade fishing means fishing conducted along or in a river, stream, lake or reservoir, and may include the use of personalized flotation equipment, but does not include the use of watercraft. (4-1-92)

**17. Float Boats.** Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. (4-1-92)

**18. Guide.** An individual who meets the criteria as set forth in Idaho Code 36-2102(c), and has further met the required qualifications as prescribed in the Rules to provide professional guided services to clientele in the pursuit and conduct of licensed activities. (4-1-92)

**19. Guide License.** A license issued by the Board to an individual who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities as defined in Idaho Code 36-2102(c). (4-1-92)

**20. Hazardous Excursions.** Outfitted or guided activities conducted outside municipal limits in a desert or mountainous environment which may constitute a potential danger to the health, safety, or welfare of participants involved. These activities shall include, but are not limited to: day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama and goat packing, snowmobiling, survival courses, and motored and non-motored cycling, but does not include wagon rides or sleigh rides. (3-10-03)

**21. He/His/Him.** Shall mean either the male or female gender. (4-1-92)

**22. Hunting.** The pursuit of any game animal or bird and all related activities including packing of client camp equipment, supplies, game meat and clients to and from a

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hunting camp. (3-30-01)

**23. Incidental Activity.** Shall be and is the same as a minor activity. (4-1-92)

**24. ~~Incidental~~ Minor Amendment.** All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. ~~(4-1-92)~~( )

**25. Investigator.** An individual employed by the Board to monitor compliance with the provisions of the Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and Rules promulgated thereunder and issue warning tickets for violations thereof. An investigator shall not have arrest powers nor any other power of a peace officer. (4-1-92)

**26. Major Activity.** A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. (4-1-92)

**27. Major Amendment.** All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (4-1-92)

**28. Minor Activity.** A licensed activity the nature of which must be carried out in conjunction with a major activity, but is not the primary purpose of the excursion. (3-15-02)

**29. Mountainous.** A region receiving limited to abundant annual precipitation with an associated vegetative cover of grass, weeds, shrubs, or trees. Cool summer temperatures and cold winter temperatures prevail. A mountainous area is a land surface ranging from level to gently rolling low hills to elevated lands that are often broken with poor to well-developed, deeply entrenched drainage systems, rims, cliffs, and escarpments to steep-sided land masses of impressive size and height. (4-1-92)

**30. New Opportunity.** A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past. (4-1-92)

**31. Nonresident.** An individual, corporation, firm, or partnership who is not a resident of the state of Idaho. (See "Resident"). (4-1-92)

~~**32. Nonuse.** Inactivity, such as incidental activity only, or an outfitter's making zero (0) use of major licensed activities for any two (2) of the three (3) preceding years. See Definitions, "Zero (0) use," and Subsection 024.01. (3-23-98)~~

~~**332. Operating Area.** The area assigned by the Board to an outfitter for the conduct of outfitting activities. (4-1-92)~~

~~**343. Operating Plan.** A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. (See Subsection 018.03). (4-1-92)~~



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**354. Outfitter.** An individual, corporation, firm, partnership, or other organization or combination thereof that meets the criteria as set forth in Idaho Code 36-2102(b), and has further met the required qualifications as prescribed in the Rules to conduct an outfitting business in Idaho. (4-1-92)

**365. Outfitter License.** A license issued by the Board to an individual, partnership, corporation, or other duly constituted organization to conduct activities as defined in Section 36-2102(b), Idaho Code. The conduct of an outfitted operation on any land(s) is not authorized unless signed permission, a permit, or a lease is obtained from the land owner(s), or their agent(s), and filed with the Board. (3-15-02)

**376. Out-of-Pocket Costs.** The direct costs attributable to a recreational activity. Such direct costs shall not include: (4-1-92)

- a. Compensation for either sponsors or participants; (4-1-92)
- b. Amortization or depreciation of debt or equipment; or (4-1-92)
- c. Costs of non-expendable supplies. (4-1-92)

**387. Power Boats.** All motorized watercraft used on Idaho waters open to commercial outfitting activities as set forth in Subsections 059.01 and 059.02. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steerage. (4-1-92)

**398. Relinquishment of License Privileges.** The failure to re-apply at the expiration of a license; the loss through nonuse, inactivity, revocation, or voluntary surrender of a license; or other loss of license. (See Subsection 030.03). (3-23-98)

**4039. Resident.** An individual, corporation, firm, or partnership who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license. (4-1-92)

**440. Rules.** The Rules of the Board. (4-1-92)

**421. Stay of Board Action.** An order, pursuant to Idaho Code 67-5215(c), stopping or delaying the enforcement of a Board decision, order or action. (4-1-92)

**432. Third Party Agreement.** The allowing of the conduct of an outfitted or guided activity by the outfitter licensed to conduct those activities by any persons not directly employed by said outfitter. (See Section 023). (4-1-92)

**443. Trainee.** A person not less than sixteen (16) years of age who does not possess the necessary experience or skill qualifications required to obtain a guide license, but who is working toward obtaining the necessary experience or skill qualifications. This required training shall be recorded on a form provided by the Board. A trainee may not provide any direct guiding services for clients, but may assist while under direct supervision. (5-1-95)

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**454. Boat Trainee Under Supervision.** A boat trainee must be in a boat operated by a licensed boatman, or one in which the operation is closely monitored by a licensed boatman. The licensed boatman need not be in the same boat during training as long as the trainee's activity is closely monitored and the licensed boatman can render immediate assistance. ~~(3-10-03)~~( )

**465. Unethical/Unprofessional Conduct.** Any activity(ies) by an outfitter or guide which is inappropriate to the conduct of the outfitting or guiding profession. These activities include, but are not limited to: (3-30-01)

- a. An outfitter employing an unlicensed guide; (3-30-01)
- b. Providing false, fraudulent or misleading information to the Board; (3-30-01)
- c. Failure to obey an order of the Board; (3-30-01)
- d. Failure to provide services as advertised or contracted; (3-30-01)
- e. Harassment of the public in their use of Idaho's outdoor recreational opportunities; (3-30-01)
- f. Violation of state or federal fish and game laws; (3-30-01)
- g. Engaging in unlicensed activities or conducting outfitter/guide services outside the operating area for which the licensee is licensed; (3-30-01)
- h. Disregard for the conservation, maintenance or enhancement of fish, game, land and water resources; (3-30-01)
- i. Failure to pay a supplier of goods or services to the outfitter business; (3-15-02)
- j. Failure to pay state taxes; or (3-15-02)
- k. Operating in a manner which endangers the health, safety, or welfare of the public. (3-30-01)
- l. Selling lifetime excursions, lifetime hunts, or selling of outfitted activities to an individual for the life of that individual and collecting fees accordingly. ( )

**476. Validated Training Form.** An approved form bearing the "Great Seal of the State of Idaho" and the official stamp of the Board affixed thereon. (4-1-92)

**487. Watercraft.** A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices. (4-1-92)

~~**49. Zero Use.** No or negligible use by an outfitter of his licensed activity unless the lack of use is due to an act of nature or season or hunting or fishing restrictions by a state or~~

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~~federal agency that limit the ability of the outfitter to seek and accommodate clientele. (4-1-92)~~

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **007. LICENSE RESTRICTIONS.**

A license issued by the Board shall, for an outfitter license, specify the operating area and all activities for which the outfitter is licensed; for a guide license, specify all activities for which a guide is qualified to guide and shall indicate the outfitter(s) who signed the guide license application as the employing outfitter(s); and identify such limitation(s) or qualification(s) as may be imposed by the Board in issue of said license. (10-15-88)

**01. Restriction.** An outfitter shall not conduct any activities not specified on the outfitter license, nor operate in any area(s), nor on any water(s) for which he is not licensed. (10-15-88)

**02. Qualified.** All outfitters must be qualified to guide or have in their employment a licensed guide or guides who are qualified for the activity(ies) for which the outfitter is licensed. (10-15-88)

**03. Review.** An outfitter's qualifications to guide shall be reviewed by the Board, and, if approved, he will be issued both an outfitter and guide license at no additional fee. (10-15-88)

**04. Guide Restrictions.** A guide shall not guide for any activity(ies), or on any water, or in any operating area for which his employing outfitter is not licensed. (5-1-95)

**05. Qualifications.** The qualification(s) of an outfitter or guide licensee shall be determined in accordance with Idaho Code, Title 36, Chapter 21, and Rules promulgated thereunder. (10-15-88)

**06. Limitation.** A limitation in number of clientele served, operating area, or any other criteria affecting the safety, health, and welfare, of the public or viability of the fish, and wildlife, or other natural resources shall be imposed in licensing where such limitation is deemed necessary by the Board in accordance with Idaho Code, Title 36, Chapter 21, and the Idaho Outfitters and Guides Licensing Board Rules. (10-15-88)

**07. Notification.** An outfitter shall notify the Board: (10-15-88)

**a.** When an outfitter permanently terminates the services of a licensed guide during the season, the Board shall be notified within fifteen (15) days, stating the date of termination. (10-15-88)

**b.** When an outfitter employs a licensed guide who is not currently licensed under his outfitter's license, said outfitter shall notify the Board within fifteen (15) days. ~~(10-15-88)~~(\_\_\_\_)

**c.** The above requirements shall not apply in the case of a temporary employment, or

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short term "loan" or transfer (less than fifteen (15) days duration and not on a routine basis) of a guide between outfitters, or termination of employment of a guide upon completion of the seasonal activity for which the guide was employed. When there is a loan or transfer, the employing outfitter or authorized agent shall keep written documentation of the loan or transfer and dates and times. Repeated transfers or loans of guides are required to be done by using the amendment process. ~~(10-15-88)~~( )

d. In addition, an outfitter may employ an individual to guide for ten (10) days or for one (1) excursion, whichever is less, using a ~~one-time temporary guide license on a form~~ letter of authorization provided by the Board. With the exception of a current first-aid card, the ~~guide individual~~ shall be otherwise fully qualified to provide guiding services in the area and for the activity guided. The employing outfitter shall certify to the Board prior to employment that the ~~guide individual~~ is qualified and may only use one (1) ~~guide individual~~ in this manner per license year. ~~(3-23-98)~~( )

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **009. ~~(RESERVED)~~ OUTFITTER LICENSE CODES AND GUIDE ACTIVITY CODES.**

##### **01. Outfitter License Codes.**

License Codes	Guide Activity Codes
<u>1A</u>	<u>Antelope</u>
<u>1B</u>	<u>Bobcat</u>
<u>1D</u>	<u>Deer</u>
<u>1E</u>	<u>Elk</u>
<u>1G</u>	<u>Goat</u>
<u>1M</u>	<u>Moose</u>
<u>1S</u>	<u>Sheep</u>
<u>1W</u>	<u>Wolf</u>
<u>2B</u>	<u>Bear</u>
<u>2C</u>	<u>Cougar</u>
<u>3P</u>	<u>Predators</u>
<u>4FG</u>	<u>Forest Grouse</u>
<u>4CH</u>	<u>Chukar and Grey Partridge</u>
<u>4TK</u>	<u>Turkey</u>
<u>4UG</u>	<u>Upland Game Birds (shooting preserves)</u>
<u>4WF</u>	<u>Waterfowl</u>

# House Resource and Conservation Committee

## **OUTFITTERS AND GUIDES LICENSING BOARD** **Rules of the Outfitters and Guides Licensing Board**

**Docket No. 25-0101-0402**  
**PENDING FEE RULE**

License Codes	Guide Activity Codes
<u>14DH</u>	<u>Day Hikes</u>
<u>16LP</u>	<u>Llama and Goat Packing</u>
<u>17SV</u>	<u>Survival Course</u>
<u>19BT</u>	<u>Mountain Bike Touring</u>
<u>20PT</u>	<u>Photography Trips</u>
<u>5AF</u>	<u>Anadromous Fishing (including walk and wade fishing unless otherwise restricted. Includes all fish unless otherwise restricted.)</u>
<u>5F</u>	<u>Fishing (including walk and wade fishing unless otherwise restricted. Does not include anadromous fish)</u>
<u>5PBF</u>	<u>Powerboat Fishing (including walk and wade fishing unless otherwise restricted)</u>
<u>5FBF</u>	<u>Floatboat Fishing (including walk and wade fishing unless otherwise restricted)</u>
<u>5WW</u>	<u>Walk and Wade Fishing Only (access by land based means only)</u>
<u>6BCS</u>	<u>Backcountry Snowshoeing</u>
<u>6SKI1</u>	<u>Level I Skiing</u>
<u>6SKI2</u>	<u>Level II Skiing</u>
<u>6MTR</u>	<u>Motorized Trail Rides</u>
<u>6TR</u>	<u>Non-motorized Trailrides, Equestrian Rides, etc.</u>
<u>7BP</u>	<u>Backpacking</u>
<u>8SN</u>	<u>Snowmobiling</u>
<u>9TM</u>	<u>Technical Mountaineering</u>
<u>10 FB</u>	<u>Float Boating and Kayaking</u>
<u>10 PB</u>	<u>Power Boating</u>

( )

## **02. Guide Activity Codes.**

License Codes	Guide Activity Codes
<u>GBG</u>	<u>Big Game (deer, elk, goat, sheep, bear, cougar, moose, antelope, wolf, predators)</u>
<u>GH</u>	<u>Bird Hunting (chuckar, forest grouse, waterfowl, turkey)</u>
<u>GR</u>	<u>Recreation (fishing, day hikes, photography trips, trail rides, backpacking, llama and goat packing, survival courses, mountain bike touring)</u>
<u>GSKI1</u>	<u>Skiing, Level I</u>
<u>GSKI2</u>	<u>Skiing, Level II</u>
<u>GSM</u>	<u>Snowmobiling</u>

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License Codes	Guide Activity Codes
<u>GTM</u>	<u>Technical Mountaineering</u>
<u>GB</u>	<u>Boating Guide (licensed by river section)</u>
<u>GS</u>	<u>Snowshoe Guide</u>

( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 015. ANNUAL DATE, MULTIPLE YEARS, FEES, AND PAYMENT.

##### 01. Annual Dates. (3-20-04)

a. All outfitter and designated license applications must be completed and received by the Board by January 31 of each year. (3-20-04)

b. All outfitter applications and designated agent applications received by the Board after January 31 that are not complete will be subject to special processing fees. (3-20-04)

c. The last day of the license year for all licenses is March 31 of each year. (3-20-04)

d. Guide license applications may be submitted at any time during the year. (3-20-04)

02. **Outfitter And Designated Agent ~~Late~~ Penalty Fee.** When a completed renewal application is filed with the Board after the last day of the license year, the following penalty shall apply: ~~(3-20-04)~~( )

a. A completed application received by the Board the last day of the license year - no ~~late~~ penalty fee shall apply. ~~(3-10-03)~~( )

b. A completed application received by the Board after the last day of the license year - a ~~fifty dollar (\$50) late~~ penalty fee shall be paid before the license is issued. ~~(3-10-03)~~( )

03. **License Lapsed And Relinquished.** A completed outfitter application received by the Board after ninety (90) days after the last day of the license year will not be accepted for licensure. The license will have lapsed and therefore is void and vacated. If a completed application is not received by the Board by ninety (90) days after the last day of the license year, the license is relinquished. (3-10-03)

04. **Refund Of Unused One Time Application Fees.** All unused portions of one (1) time new outfitter, new designated agent, or new guide application fees shall be returned to the applicant. (3-19-99)

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**05. Multiple Year Licenses.** (3-20-04)

**a.** Beginning in license year 2004, outfitter and designated agent licenses may be issued for a one (1) year or three (3) year period. All new applicants must be licensed for two (2) years before the applicant may apply for a three (3) year license. (3-20-04)

**b.** License fees shall be prorated based on the number of years for which the applicant is licensed. The multiyear license fee may be transferred to the bona fide purchaser of an outfitter business. Bona fide purchasers of an outfitter business will be credited for annual license fees for prorated years remaining with a business at the time of the purchase. (3-20-04)

**c.** The multiple year fee must be paid at the time of renewal and prior to the beginning of the license period. This does not relieve a licensed outfitter from submitting annual reports and use reports, and annual bonding and insurance requirements. (3-20-04)

**d.** There shall be no reimbursement of fees should the license become revoked or relinquished. (3-20-04)

**e.** Outfitters must submit renewal applications no later than January 31 prior to the subsequent license period. (3-20-04)

**06. Payment.** ( )

**a.** Prior to the issuance of a license, an applicant must submit the appropriate fee in the form of a certified check, cashier's check, money order, outfitter's company check or use of outfitter and designated agent credit cards. ~~(3-20-04)~~( )

**b.** The applicant must pay an annual license fee for each license issued submit annual use reports for each license, and be able to differentiate between each business and its clients. ( )

**c.** Designated Agents must pay an annual license fee for each license issued. ( )

**d.** Guides must pay an annual license fee for a license but that license can be amended to include more than one (1) outfitter. ( )

**07. Expedited or Emergency Application Fees.** The fee for expedited or emergency applications for which there is a request to have the application pulled forward before other applications and have it processed and a license issued within seven (7) days of receipt of the application shall be: (3-16-04)

**a.** One hundred fifty dollars (\$150) for an outfitter license; (3-16-04)

**b.** Seventy-five dollars (\$75) for a designated agent license; and (3-16-04)

**c.** Fifty dollars (\$50) for a guide license. (3-16-04)

**08. Resubmittal, Exceptional or Special Processing of Application.** The fee for

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resubmittal, exceptional or special processing of an application that is incomplete, or for other reasons for which the Board is otherwise unable to process the application shall be: (3-16-04)

- a. One hundred dollars (\$100) for an outfitter license; (3-16-04)
- b. Seventy-five dollars (\$75) for a designated license; (3-16-04)
- c. Fifty dollars (\$50) for a guide license; and (3-16-04)
- d. Five dollars (\$5) for allocation fee recovery. (3-16-04)

**09. Fees Associated With the Filing of Applications.** There shall be a credit for online and electronic filing of applications, and a fee for the use of credit cards corresponding to the cost to the agency for processing the card pursuant to Section 36-2108, Idaho Code. (3-16-04)

- a. Twenty dollars (\$20) for an outfitter license; (3-16-04)
- b. Seven dollars (\$7) for a designated agent license; and (3-16-04)
- c. Five dollars and twenty-five cents (\$5.25) for a guide license. (3-16-04)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **018. NEW OUTFITTER OR OUTFITTER LICENSE AMENDMENT APPLICATION.**

In order to be complete, a new outfitter license or outfitter license amendment application, or new landowner signoff in existing areas must, in addition to all other requirements: (3-15-02)

**01. Signed.** Be signed by the applicant. A new outfitter license application must be signed under oath before a notary public and be accompanied by a bond on a form approved by the Board. (3-23-98)

**02. Other Signatures.** Include the signatures of: (9-1-90)

a. The affected state and federal land managers in all areas where an outfitter plans to utilize lands administered by the state or federal government (this may involve memorandum of understanding procedures as applicable to proposed operation on national forest or public domain lands); and, (9-1-90)

b. Private land owners, or their agents, where an outfitter applicant proposes to use such private lands in his operation. (9-1-90)

**03. Sales Agreements.** A new outfitter application, or an outfitter license amendment application in the case of a sale and purchase of the outfitter business, shall include a copy of the contract or contracts for the sale, including the purchase price. ( )

**034. Operating Plan.** Include an operating plan. The operating plan shall include,



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among other things, the following: (9-1-90)

- a. A list of the activities to be conducted in the operating area(s) requested. (9-1-90)
- b. A detailed map showing the operating area(s) requested for each activity and a worded description of the boundaries of said operating area(s), described in terms of rivers, creeks, and ridges with prominent reference coordinates (section, township, and range). (9-1-90)
- c. An outfitter whose operation is solely on rivers, streams, lakes or reservoirs should specify put-in and take-out points but need not send maps. (9-1-90)
- d. A detailed description of how and when each operating area(s) will be used for each activity. (9-1-90)
- e. The proposed number of guests intended to be accommodated for each activity within the proposed operating area(s). (9-1-90)
- f. A list of the names and locations of camps that will be used for each activity, and whether on public or private land. (9-1-90)
- g. A list of the basic equipment, facilities, and livestock, and proof of financial capability necessary to conduct the proposed outfitted activity or business. (9-1-90)
- h. The number, title (guide, lead guide, etc.), and principal activities of individuals to be employed in the business operation. (9-1-90)
- i. A plan to assure the safety and provide for emergency medical care of guests. (9-1-90)

**045. Hearing.** If more than one (1) applicant submits a complete application with landowner signoff(s), a hearing will be held to decide the successful applicant. (3-15-02)

**056. Existing Operating Area.** A licensed outfitter may be given priority for any opportunities within the outfitter's existing operating area boundaries. (3-15-02)

### **019. DESIGNATED AGENT.**

When the applicant is a corporation, firm, partnership, or other organization or combination thereof, a supplemental form shall be completed and it shall designate at least one (1) designated agent who is a qualified outfitter who shall be responsible for the outfitting business. The outfitter business and designated agent(s) must each make application and obtain licenses. ~~One (1) Proof of a bond naming the business and the designated agent(s)~~ must be submitted to the Board to complete a renewal application. Any new applicant who has been approved by the Board must submit a bond prior to the issuance of a license. (10-15-88)(\_\_\_\_)

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#### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **021. EVALUATION OF THE OUTFITTER APPLICATION.**

In evaluating an outfitter application for approval or denial, the Board shall consider, but not be limited to, the following criteria: (3-1-86)

**01. Compliance.** Applicant compliance with qualification criteria as prescribed in the Act and the Rules. (3-1-86)

**02. Need For Services.** The public need for the proposed service(s) in the area requested on the application. (3-1-86)

**03. Other.** The extent of the applicant's experience, knowledge, and ability in the area and in the conduct of activities requested. (3-1-86)

**04. Equipment And Resources To Operate.** The applicant's qualifications by reason of equipment or resources to operate. (3-1-86)

**05. Previous Record.** The applicant's previous record. (3-1-86)

**06. Accessibility Of Area.** The accessibility of the area and use by the general public, the commercial use already licensed in the area, the particular terrain, and normal weather conditions during the season of operation. (3-1-86)

**07. Area Requested.** The total amount of area requested, giving due consideration to the effect such license would have upon the environment, the amount of game available to be harvested, the probable impact on the area should additional licenses be issued, and the number of persons who can be adequately served in the area. (3-1-86)

**08. Operating Plan.** The adequacy and acceptability of the proposed operating plan. (3-1-86)

**a.** The applicant's knowledge of financial and business management needs and practices. (3-1-86)

**b.** The applicant's ability to manage and direct personnel and guests. (3-1-86)

**09. Name.** The name registered as a d.b.a. (doing business as), or the name of the business entity, registered with the Secretary of State. ( )

#### **022. ISSUANCE OF AN OUTFITTER LICENSE.**

When the Board issues an outfitter license, said license shall specify the activity(ies) for which the applicant is licensed, designate specific operating area(s) for each activity, and be based on an operating plan acceptable to the Board. In order to safeguard the health, safety, and welfare of the public and for the conservation of wildlife resources, the Board may place a limit on the number of outfitter licenses issued within an operating area. An outfitter may not operate in an area for which there is no landowner or land manager *signoff* statement where applicable. The outfitter

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shall operate only under the names licensed by the Board and under no other names. An outfitter business that is a corporation, partnership, LLC or LLP must have a Designated Agent in order to be licensed and to operate. (3-15-02)( )

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **024. STANDARDS FOR NON-USE.**

~~Prior to the renewal of a license, the Board shall review the outfitter's use reports for the preceding three (3) years to determine whether the operation falls within a nonuse category as defined in Subsection 024.01. If the outfitter falls within a nonuse category, a "notice of nonuse" may be issued to the outfitter. The notice shall include the activity(ies) and operating area(s) deemed to be in nonuse, an explanation of how the determination was made, and the hearing date on which the Board will consider whether the license or any part thereof should not be renewed because of nonuse.~~ An outfitter license is a publicly issued license enabling the holder to provide outfitted and guided services to the public. Because many outfitters operate on public lands and waters, there is an expectation that these services be provided adequately and that the public's natural resources are utilized appropriately. It is important to determine that a business is and will be viable before a new license can be issued to a buyer. This is done by determining whether the outfitter is providing, or attempting to provide, the public service intended. It is recognized that there are various factors outside the control of an outfitter that may affect an outfitter's business operation. This rule establishes the process used by the Board to monitor the use of outfitter assigned activities and operating areas, to determine the causes for outfitter inactivity, and to fairly administer identified remedies when this service is inadequately provided or the resource is inadequately used. The Board will prioritize the need for action on non-use based on, among other factors, interest or demand for the particular activity or area. (3-1-86)( )

**01. ~~Nonuse.~~** ~~For the purpose of this section shall mean zero (0) use of an outfitter's licensed activity(ies) for any two (2) of the three (3) preceding years as reported by the licensee in his annual report to the Board.~~ **Requirement.** The Board shall annually review the outfitter's use reports for the preceding three (3) years to determine whether any licensed activity or operating area fall within non-use. If the outfitter falls within non-use, a "notice of non-use" may be issued to the outfitter. (3-1-86)( )

**02. ~~Waiver.~~** ~~Upon a showing of good cause, the Board may waive compliance with the nonuse standard.~~ **Definitions.** (3-1-86)( )

**a.** Non-use. When an outfitter is making zero or negligible use of major licensed activities for any two (2) of the three (3) preceding years unless the lack of use is due to an act of nature or because of state or federal agency restrictions on hunting or fishing that limit the ability of the outfitter to seek and accommodate clients; ( )

**b.** Zero use. No recorded use by an outfitter of their licensed area or activities;( )

**c.** Negligible use. An unreasonable lack of use as determined by the Board for any one (1) or more of the particular activities in the assigned operating area. Typically, use may be

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determined by comparison of use levels for the same activity(s) in similar operating areas. Other factors in determining use are found in Subsection 024.04. ( )

**03. Process.** ( )

**a.** Outfitters are required to submit use reports each year during the license renewal. ( )

**b.** A “notice of non-use” may be issued to an outfitter who appears to be in non-use. The notice shall include the activity(s) and operating area(s) that appear to be in non-use and an explanation of how the determination was made. The outfitter will be given the opportunity to correct the use records by supplying staff with evidence of use, prior to a hearing being scheduled. If adequate proof of use is not provided, the matter will be scheduled for a hearing. ( )

**c.** When it is determined by the Board that any activity or operating area has had zero use or negligible use, certain requirements may be imposed by the Board up to and including revocation of some or all of the outfitter’s operating areas and activities. ( )

**04. Examples of Acceptable Use:** ( )

**a.** Paying clients participating in activities occurring within a designated operating area; ( )

**b.** Donated trips; ( )

**c.** Outfitter initiated applications for controlled hunts in their licensed operating area; ( )

**d.** Outfitter initiated applications for trophy species; and ( )

**e.** Use in conformance with a current and accepted operating plan. ( )

**05. Required Records.** Outfitters may be required to submit client records that include the name, address, and date of activity of individual clients or groups for a period of three (3) consecutive years. ( )

**06. Non-Use During a Sale.** Board staff shall review all full or partial business sales for non-use. If it is determined a major activity or operating area has had zero or negligible use, the Board may review the sale and the issuance of a license may be denied. In some instances the Board may approve the sale with notification to the buyer that use must be established within the following two (2) out of the next three (3) years or the area or activity may be removed from their license. ( )

**07. Waiver of Compliance.** The Board may waive compliance with the non-use standard upon a showing of good cause. Waivers of non-use may be issued when the lack of use is a result of an act of nature, or by state or federal agency seasonal restrictions on hunting or fishing that limit the ability of the outfitter to seek and accommodate clients. Waivers may also be considered when personal circumstances such as illness or injury limit the ability of the outfitter

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to seek and accommodate clients. Non-use waivers must be applied for prior to the beginning of the license year or immediately upon the advent of extenuating circumstances. If a federal permit holder is requesting zero or negligible use, the request for a waiver must be accompanied by a Land Manager's Statement. ( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 028. OUTFITTER BUSINESS PURCHASE, LICENSE CONSIDERATIONS.

01. ~~Transferability. An outfitter license is not transferable.~~ General Issues With Buying or Selling an Outfitter Business. (3-15-02)( )

a. Selling an Outfitter Business. ( )

i. An outfitter may sell his business, however, if only a portion of the business is proposed for sale, the remaining portion(s) must all be viable as determined by the Board when applicable. Remaining business portions must also be determined to be acceptable. An outfitter selling a portion of his business must be prepared to submit an outfitter major amendment request, and the buyer must submit either a new outfitter application or a major amendment application. ( )

ii. Individuals authorized to sell business. The licensed outfitter or an authorized agent must initiate the sale process by notifying the Board of the pending sale prior to the sale. ( )

b. An Outfitter License is not Transferable. The acquisition of an outfitting business from a licensed outfitter does not require the Board to transfer the operating area(s) of the licensee to the purchaser or to issue an outfitter license. An applicant who has negotiated a purchase agreement with a licensee may be given priority for a license if all other outfitter license requirements are met. ( )

c. Licenses have no Sale Value. The Board may request a list of tangible assets (things of material value) and intangible assets (non-material, i.e. client lists, etc.) and their associated value. This review will ensure that the business assets are part of the sales agreement. ( )

02. ~~Issuance to Purchaser. The purchase of an outfitting business from a licensed outfitter does not require the Board to transfer the operating area(s) of the licensee to the purchaser or to issue to him an outfitter license; however, an applicant who has negotiated a purchase agreement with a licensee may be given priority for a license if he meets all other outfitter requirements.~~ Transfer of Title. A transfer of title to the business covered by a state license shall result in termination of the license. In that event, the party who acquires title to the business must submit an application for a license. The issuance of a new state license to the party who acquires title to the business shall be at the sole discretion of the Board. (3-15-02)( )

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**03. Change in Control.** Controlling interest means the entity in control of the business or corporation. If the licensee is a corporation, change of control means the sale or transfer of a controlling interest of the corporate stock. NOTE: The sale or transfer of a controlling interest of the corporate stock is considered the same as a business sale. In this type of business sale, the corporate stock shares are the tangible assets being sold and are evaluated as such. If the licensee is a partnership, change of control means the sale or transfer of a controlling interest or the greater of the assets. If the licensee is an individual, change of control means the sale or transfer of the business to another party. Change in control also means a change in the business entity from individual to a partnership or corporation, etc. where the original individual no longer owns a majority of the business. If the cumulative transfer of stock shares, or other interest, by a corporation, partnership or sole proprietor over a period of time results in changing the controlling interest, the new controlling interest shall be required to apply for a new license. NOTE: An exception to this may be the death of an outfitter. In this case, the heir(s) must apply for a minor amendment and will be given priority consideration for the license. Any change in control of the business entity may result in cancellation of the state license. Prior to the exchange, the party acquiring control of the business must submit an application for a state license with the Board. The applicant may not operate until the state license has been issued. ( )

**034. Notification to Clients.** When an existing operation is acquired by another outfitter, all clients who have booked with the original outfitter must be promptly notified. Each client must be satisfied with the new arrangements or his advance payment must be refunded. (3-15-02)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **030. OUTFITTER WAITING LISTS.**

When there are more outfitter applications for ~~river operations~~ an outfitter operating area than the maximum number of licenses allowing such activity, or when an ~~outfitter applicant~~ individual wishes to be ~~licensed~~ considered in an area to which another outfitter has historically been licensed, the Board shall maintain a list of such ~~applicants~~ individuals for notification of an available opening. ~~The initial application must be complete except for bond and license fee. If there is no waiting list for an area, the Board may proceed with the license application or may employ a competitive application process.~~ (5-1-95)( )

**01. Qualification.** ~~General outfitter qualifications as outlined in the Act and Rules.~~ **Waiting List.** The waiting list will be maintained for each individual river, lake and reservoir outlined in Section 059 and for each specific IDFG unit listed in IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho". (3-1-86)( )

**02. Experience.** ~~Experience in an outfitting business.~~ **Outfitter Application or Outfitter Amendment Form.** A new outfitter application or outfitter amendment form must be completed and a fee submitted for each individual river, lake and reservoir and for each specific IDFG unit that the individual desires. The individual must indicate all activities for which they wish to be considered on the application form. (3-1-86)( )

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**03. ~~Business Experience. Other business experience or training.~~ New Outfitter Waiting List Application Fee.** The Board will charge the individual wishing to be placed on a waiting list fifteen percent (15%) of the new outfitter application fee for each area for which they wish to be considered. This fee is nonrefundable but shall be credited should the individual's application be selected for licensure within the time period outlined in Subsection 030.04.

(3-1-86)( )

**04. ~~Financial Resources. Financial resources available to operate the proposed business.~~ Length of Time Name Is on Waiting List.** A name on the waiting list shall be maintained for a period of two (2) years or until December 31 of the second year that the name is placed on the list, whichever comes first.

(3-1-86)( )

**05. ~~Equipment Resources. Equipment resources available to operate the proposed business.~~ When Available Outfitting Opening Occurs.** When, or if, an available opening does occur and public announcement is made, the Board shall use the waiting list for direct notification by mail of interested parties, and shall select a qualified candidate from those who apply. Any person on the list who remains interested in obtaining a license following notification of availability must re-apply by submitting all necessary forms and fees during the open period as announced by the Board in order to have his application considered.

(3-1-86)( )

**06. ~~Adequacy. Adequacy and acceptability of the proposed operating plan for use of the requested operating area.~~ When an Operating Area Is Relinquished by the Licensee.** If an existing operating area (hunting, boating, or other) is relinquished by the licensee, the Board (if it deems it advisable to relicense the area) shall publicize the area's availability and accept written applications for a thirty (30) day period of time from the date of public notice from those persons wishing to be licensed to the area. The Board shall then consider the qualifications of all applicants and license the area to the candidate determined to be most qualified. Criteria to be used in making this selection shall include, ~~but shall not be limited to, the following:~~ those criteria used to consider new outfitter applications or those criteria used to consider existing outfitters who wish to amend their licenses.

(5-1-95)( )

**07. Availability.** ~~In compliance with the above criteria, t~~The Board shall determine the availability of operating areas for relicensing by the beginning of each license year.

(3-1-86)( )

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **034. GUIDE APPLICATION REQUIREMENTS - GENERAL.**

To be complete, an application for a guide license must:

(4-1-92)

**01. First Aid Card.** Be accompanied by an affidavit by the employing outfitter that the applicant will have and produce upon request a valid first aid card while guiding.

(3-10-03)( )

**02. Signatures.** Have the signature of the applicant and of the licensed outfitter(s) who

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wishes to employ the applicant as a guide, who shall certify that the applicant: (4-1-92)

a. Is qualified to perform the type of guiding activity(ies) for which ~~he~~ the applicant seeks licensing; i.e., hunting, boating, skiing, or other as may be applicable. (~~4-1-92~~)( )

b. Has extensive, first-hand knowledge of the operating area(s) and water(s) in or on which ~~he~~ the applicant will be guiding. (~~4-1-92~~)( )

c. If the ~~guide~~ applicant is land based, ~~the guide~~ is able to read and understand a map and compass or operate a global positioning system (GPS) or other computerized map system. (~~3-30-01~~)( )

d. Is clean and well-mannered with a desire to please those whom ~~he~~ the applicant is called upon to serve. (~~4-1-92~~)( )

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **044. SKIING, NON-HAZARDOUS AND HAZARDOUS TERRAIN OUTFITTER, DESIGNATED AGENT, SKI GUIDE AND SKI GUIDE TRAINEE.**

##### **01. Applications.** ( )

a. An outfitter, designated agent, or guide must submit an outfitter or a guide application with current outfitter operating plan, if required, ski resume, avalanche training certificates, appropriate fees and proof of first aid ~~and~~ training. ( )

b. The Board will then send this information to the Technical Advisory Committee (TAC) for evaluation. The TAC is a five (5) member body of qualified backcountry ski outfitters and ski guides appointed by the Executive Director and confirmed by the Board to advise the Board on non-hazardous and hazardous terrain skiing. ( )

c. The TAC will designate or determine the scope of the outfitting operation and whether guiding principally in non-hazardous or hazardous terrain, ~~and~~ The TAC will then recommend to the Board whether or not the Board should license the outfitter or guide as either Level I Ski Operator (non-hazardous terrain, principally sub-alpine or skiing operations in forests) or a Level II Ski Operator (hazardous terrain with a high degree of avalanche exposure). Designated agents and Guides are licensed to fill job duties of the respective outfitters based upon terrain and services of the guide rendered. (~~12-1-03~~)F( )

##### **02. Designations and Qualifications for ~~Guides~~ Outfitters, Designated Agents, Guides and Trainees Are as Follows:** (~~12-1-03~~)F( )

~~01a.~~ Level I ski guide (non-hazardous terrain). Is qualified to lead ski tours in the outfitter's operating area. One (1) year training as a ski guide assistant in a non-hazardous backcountry setting. Level I Ski Guides may work in hazardous terrain as a Level II Ski Guide



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Trainee under the supervision of a Level II Ski Guide. Level I Ski Guides are required to have:  
(12-1-03)T

**a.i.** Standard First Aid training as per guide licensing in Idaho; (12-1-03)T  
**b.ii.** Level I field-based avalanche training consisting of a twenty-four (24) hour curriculum submitted and an instructor roster; (12-1-03)T

**c.iii.** Knowledge of Outfitters Scope of Operation including logistics, services, terrain; and (12-1-03)T

**d.iv.** A letter of reference from the employing outfitter. (12-1-03)T

**02b.** Level II ski guide (hazardous terrain). Has in-depth ski guiding experience on hazardous terrain and has the following qualifications: (12-1-03)T

**a.i.** Two (2) winter seasons training with Licensed Level II Ski Outfitter or Guide or equivalent work experience with another Level II ski operation which conduct services principally in hazardous or avalanche terrain; (12-1-03)T

**b.ii.** Advanced First Aid, WFR, or EMT of a minimum of forty-eight (48) hours; (12-1-03)T

**c.iii.** Level 1 and Level II field-based avalanche training consisting of at least forty-eight (48) hours curriculum with a submitted instructor roster; (12-1-03)T

**d.iv.** Knowledge of the Outfitters Scope of Operation including logistics, services, terrain; and (12-1-03)T

**e.v.** A letter of reference from the employing outfitter. (12-1-03)T

**03. Outfitters.** Outfitters who conduct winter ski-based operations may be designated as: (12-1-03)T

**a.** Level I: self-propelled, with snowcat, or with snowmobile assisted including day skiing, hut skiing in non-hazardous terrain; (12-1-03)T

**b.** Level II: self-propelled including day skiing, hut skiing, multi-day expeditions, in hazardous terrain; or (12-1-03)T

**c.** Level II skiing operations with snowcats, helicopters, or ski from out of bounds from ski areas. (12-1-03)T

**04. Outfitters Plan of Operation.** A detailed Outfitters Plan of Operation is required which includes a plan for snowpack, terrain and avalanche safety assessment, additional transport utilized (i.e., snowmobiles, snowcats, helicopters) and instruction and training plans of guides working around related equipment. Additional safety and training standards for guides must be detailed in the operating plan. (12-1-03)T

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**05. Designated Agent.** The Designated Agent must be a working Guide with the appropriate level of licensing for the operation and a minimum of five (5) years working at that level of guiding as to the scope of the operation. (12-1-03)T

**06. Ski Guide Trainees.** Trainees may be selected for employment by the outfitter and are not required to have a license. A trainee may only assist a licensed guide's direct supervision and trainees may not provide guided services to clients. Trainees must have thirty (30) days experience with a licensed ski guide in the outfitter's operating area and must meet all other guide requirements of Section 044 prior to submitting a guide application. (12-1-03)T

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **053. CONTROLLED HUNTS OUTSIDE OUTFITTER'S OPERATING AREA.**

**01. Requirements to Conduct a Controlled Hunt Outside Operating Area.** An outfitter wishing to conduct a controlled hunt outside his licensed area with a client with a controlled hunt permit must: (3-30-01)

**a.** Obtain written permission from all outfitters whose licensed area(s) will be directly involved in the hunt or obtain a finding from the Board that it is appropriate for a proposed hunt to take place in another specified area outside the outfitter's operating area; ~~(3-30-01)~~( )

**b.** Obtain written permission from all applicable landowners or land managers; (3-30-01)

**c.** Obtain approval from the Outfitters and Guides Licensing Board to conduct the hunt by satisfying the following criteria: (3-30-01)

**i.** Must be licensed for the controlled hunt species; and (3-30-01)

**ii.** Send a written request to the Board for special one-time hunt approval, to include the hunter name and address, hunting license, tag and permit numbers, controlled hunt number, and dates of hunt. (3-30-01)

**d.** Submit ~~a ten-dollar (\$10)~~ an outfitter minor amendment fee for each hunt. ~~(3-30-01)~~( )

**02. Authorization by Board.** Upon approval the Board will issue a letter authorizing the one-time hunt. This notification will include the name and address of the hunter(s), controlled hunt number, hunter(s) license, tag and permit numbers. No compensation or remuneration shall be permitted between outfitters participating in the conduct of a controlled hunt on another outfitter's area, unless the outfitter supplies a service for that compensation. (3-30-01)

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### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **059. RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.**

**01. Licensable Waters -- River Sections BL1 through Salmon River -- Table.** The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

<b>River/Section</b>	<b>Maximum No. Power</b>	<b>Maximum No. Float</b>
<b>(BL1) Blackfoot River</b> - Morgan Bridge to Trail Creek Bridge	none	2
<b>(BO1) Boise River, South Fork</b> - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. (Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman.) No overnight camping or walk-and-wade fishing allowed.	none	2
<b>(BO2) Boise River</b> - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. (Each outfitter may use at any time a maximum of four (4) boats for boating activities.) The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	2
<b>(CF1) Clark Fork River</b> - Montana stateline to Lake Pend Oreille (boating closing date September 30)	4 outfitters for either power or float or combination thereof	
<b>(CL1) Clearwater River</b> - Lowell to the Upper Bridge at Kooskia. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.)	none	5
<b>(CL2) Clearwater River</b> - The Upper Bridge at Kooskia to the Orofino Bridge. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.)	6	10

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River/Section	Maximum No. Power	Maximum No. Float
<b>(CL3) Clearwater River</b> - <u>The Orofino Bridge to the Railroad Bridge at Lewiston.</u> (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan).	10	10
<b>* (NFCL) North Fork Clearwater River</b> - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4
<b>(CDNF) Headwaters of North Fork Coeur d' Alene</b> - <u>Including tributaries (Independence and Tee Pee Creeks) upstream from Devils Elbow Campground. Three (3) walk and wade only licenses. Allow only one (1) guide per license and up to two (2) clients per guide at one time. Limited to one hundred twenty (120) use days per day.</u>	none	none
<b>(CD1) Coeur d'Alene River</b> - <u>Devil's Elbow to South Fork confluence (boating closing date June 30) There is no limit on float guides or boats. Fishing limit is one (1) float boat per license with a maximum of two (2) clients at a time. Two (2) additional Walk and Wade licenses can be issued. Walk and wade limited to one (1) guide per license with a maximum of two (2) clients at a time.</u>	none	51
<b>(CD2) Coeur d'Alene River</b> - <u>South Fork confluence downstream to Cataldo Mission Boat Ramp. The float boat closing date is June 30. There is no limit on float guides or boats. Fishing limit is one (1) float boat per license with a maximum of two (2) clients at a time. Walk and wade limited to one (1) guide per license with a maximum of two (2) clients at a time. The walk and wade activities must be associated with float boating.</u>	none	1
<b>(CD3) Lateral (Coeur d'Alene chain) Lakes</b> - <u>Connected by the Coeur d' Alene river. Cataldo Mission Boat Ramp to Highway 97 Bridge. A limit of one (1) power boat per license with a maximum of two (2) clients at a time or a limit of one (1) guide per license and two (2) float tubes at a time or two (2) clients walking and wading. The walk and wade activities must be associated with the power boating.</u>	3	none
<b>* (JB1) Jarbidge/Bruneau Rivers</b>	none	4
<b>(K01) Kootenai River</b> - Montana stateline to Canada boundary	5	5

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River/Section	Maximum No. Power	Maximum No. Float
<b>(LCL1) Little North Fork Clearwater River</b> - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. (Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.)	none	2
<b>* (LO1) Lochsa River</b>	none	5
<b>(MO1) Moyie River</b> - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)	none	5
<b>* (OW1) Owyhee River</b> - Nevada stateline to Oregon stateline or South Fork to confluence with Owyhee River (and continuing on to a take-out point).	none	6
<b>(PN1) Payette River, North Fork</b> - Payette Lakes Outlet to Hartsell Bridge. Restrictions: NO FISHING ALLOWED. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
<b>(PN1A) Payette River, North Fork</b> - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
<b>(PN2) Payette River, North Fork</b> - Cabarton to Smiths Ferry Bridge	none	5
<b>(PS1) Payette River, South Fork</b> - Grandjean to Deadwood River	none	5
<b>* (PS2) Payette River, South Fork</b> - Deadwood River to Banks	none	5
<b>(PA1) Payette River</b> - Banks to Black Canyon Dam	none	5
<b>(PO1) Pend Oreille River</b>	5	5
<b>(PR1) Priest River</b> - Dickensheet Campground to Priest River City	none	5

( )

**02. Licensable Waters -- Salmon River Through Snake River -- Table.** The following rivers and streams or sections that lie totally or partially within the state of Idaho shall

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be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
<b>*** (MF1) Salmon River, Middle Fork</b> - Boundary Creek to Indian Creek	none	27
<b>*** (MF2) Salmon River, Middle Fork</b> - Indian Creek to Cache Bar on the Salmon River	none	27
<b>(SA1) Salmon River</b> - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6
<b>(SA2) Salmon River</b> - Torrey's Bar to first Highway 93 bridge above Challis. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan).	none	5
<b>(SA3) Salmon River</b> - First Highway 93 bridge above Challis to Kilpatrick River access. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	6
<b>(SA4A) Salmon River</b> - Kilpatrick River access to North Fork - License period from May 1 to September 30. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	5	11
<b>(SA4B) Salmon River</b> - Kilpatrick River access to North Fork - License period from October 1 to April 30. Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.	2	8
<b>(SA5) Salmon River</b> - North Fork to Corn Creek	3	9

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River/Section	Maximum No. Power	Maximum No. Float
<b>*** (SA6) Salmon River</b> - Corn Creek to Spring Bar Boat Ramp with no outfitter fishing below Vinegar Creek from September 15 through March 31 except that on a case-by-case basis, outfitter fishing may occur when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.	14	31
<b>* (SA7A) Salmon River</b> - Vinegar Creek to Hammer Creek - License period from March 15 to October 15. No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.	10	26
<b>* (SA7B) Salmon River</b> - Power boats from Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp, open from September 15 to March 31 only. Each float boat outfitter may use at any one time a maximum of three (3) boats for fishing, or two (2) additional boats for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director; and each power boat outfitter may use at any one time a maximum of two (2) boats for fishing, or one (1) additional boat for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.	6	12
<b>* (SA7C) Salmon River</b> - Riggins City Park Boat Ramp to Hammer Creek. Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period from September 15 to March 31.	none	3
<b>*** (SA8) Salmon River</b> - Hammer Creek to Heller Bar or Lewiston on the Snake River	15	35
<b>* (SE1) Selway River</b> - Paradise Campground to Selway Falls	none	4
<b>(SE2) Selway River</b> - Selway Falls to the mouth of the Selway River at Lowell. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.)	none	5

( )

**03. Licensable Waters -- Snake River through Teton River -- Table.** The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by

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River/Section	Maximum No. Power	Maximum No. Float
<b>(SH1) Snake River, Henry's Fork</b> - Henry's Lake Outlet to Hatchery Ford. (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing (No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford), and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	7
<b>(SH2) Snake River, Henry's Fork</b> - Mesa Falls to St. Anthony. (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing, (no more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Warm River, Warm River to Ashton Dam, and Ashton Dam to St. Anthony), and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	8
<b>(SH3) Snake River, Henry's Fork</b> - St. Anthony to confluence with South Fork of Snake River. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	4
<b>(SS1) Snake River - South Fork</b> - Palisades Dam to confluence with Henry's Fork. No more than four (4) boats per section/per day may be used by an outfitter at any one time on any of the following river reaches: (a) Palisades Dam to Swan Valley Bridge; (b) Swan Valley Bridge to Black Canyon (Exception: Not more than eight (8) boats will be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m.); (c) Black Canyon to Poplar (Kelly Canyon); and (d) Poplar to the confluence with Henry's Fork. Restrictions: No outfitter may have more than twelve (12) boats on the SS1 in any one (1) day. Further, the lower boundary of Section (a) (Palisades Dam to Swan Valley Bridge) shall overlay Section (b) to the Conant takeout (Swan Valley Bridge to Black Canyon), and Section (b) shall overlay Section (c) to the Cottonwood access. Supply boats which do not carry clients are exempt from these restrictions.	5	6
<b>(SN1) Snake River</b> - Henry's Fork confluence downstream to Gem State Power Plant	3	3



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River/Section	Maximum No. Power	Maximum No. Float
<b>(SN2) Snake River</b> - Gem State Power Plant downstream to headwaters of American Falls Reservoir	3	3
<b>(SN3) Snake River</b> - American Falls Dam to Massacre Rocks State Park	3	3
<b>(SN4) Snake River</b> - Massacre Rocks State Park to Milner Dam	3	3
<b>* (SN5) Snake River</b> - Milner Dam to Star Falls	none	3
<b>* (SN6) Snake River</b> - Star Falls to Twin Falls	none	5
<b>(SN7) Snake River</b> - Twin Falls to Lower Salmon Falls Dam	3	3
<b>(SN8) Snake River</b> - Lower Salmon Falls Dam to Bliss Dam	3	5
<b>(SN9) Snake River</b> - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
<b>(SN10) Snake River</b> - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
<b>(SN11) Snake River</b> - Walter's Ferry to headwaters of Brownlee Reservoir	5	none
<b>* (SN12) Snake River</b> - Hells Canyon Dam to Pittsburg Landing	18	15
<b>* (SN13) Snake River</b> - Hells Canyon Dam to Pittsburg Landing, {two (2) one-day float trips only}	none	2
<b>(SN14) Snake River</b> - Pittsburg Landing to Heller Bar or Lewiston	19	15
<b>(SN15) Snake River</b> - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters)	

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River/Section	Maximum No. Power	Maximum No. Float
(SJ1) St. Joe River - Spruce Tree Campground to St Joe City Bridge. St. Joe City Bridge to Lake Coeur d'Alene	none 2	2 none
(SM1) St. Maries River	5	5
(TE1) Teton River - Upper put-in to Cache Bridge <sub>1</sub> (motors not to exceed 10 hp)	5 outfitters for either power or float or combination thereof	
(TE2) Teton River - Cache Bridge to Harrop Bridge <sub>1</sub> (motors not to exceed 10 hp)	6 outfitters for either power or float or combination thereof	
(TE3) Teton River - Harrop Bridge to confluence with Snake River <sub>1</sub> (motors not to exceed 10 hp)	none	5

\* Classified rivers

## Floatboat and powerboat outfitters on these sections shall be considered within their area of operations when hiking from the river or fishing in tributaries away from the river, but shall not include overnight activities. Conflicts with land-based outfitters shall be handled on a case-by-case basis.  
(3-20-04)( )

**024. Other -- Table.** The following lakes and reservoirs or portions thereof that lie totally or partially within the state of Idaho shall be open to fishing by outfitters with the following limitations:

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Lake Coeur d'Alene	8	1
Dworshak Reservoir	7	2
Hayden Lake	1	2
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2
Palisades Reservoir	10	2
Lake Pend Oreille	11	1
Priest Lake	5	1
American Falls Reservoir	3	2

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Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
C.J. Strike Reservoir	4	2
Brownlee Reservoir	5	2
Oxbow Reservoir	3	2
Hells Canyon Reservoir	3	2

(4-1-92)

**035. Other Lakes and Reservoirs.** All other Idaho lakes and reservoirs shall be limited to two (2) outfitters with a maximum of two (2) boats (float or power) per outfitter. (4-1-92)